

DAVID O'MAHONY

Year of call
2000



David is probably the most experienced junior at the bar in offshore financial crime and related work. His international experience is unusually geographically diverse. The range of legal issues on which he advises is considerable.

David also has an interest in the legal issues that arise in the emerging field of AI. He is currently studying for an external MSt in AI Ethics and Society at the Leverhulme Centre for Artificial Intelligence in Cambridge.

David's textbook: "Cross-border criminal and civil recovery litigation offshore" is published by Key Haven Publications.

David is qualified to accept instructions directly from clients and is registered under the Bar Council's Public Access Scheme, meaning that members of the public who seek specialist advice can come direct to him. In addition, he welcomes instructions from solicitors, in-house law departments, qualified foreign lawyers, and clients licensed by the Bar Council to give instructions direct to barristers under the Bar Council's Licensed Access Scheme. For more information please visit our Direct Access page [here](#).

LEGAL EXPERTISE

Offshore

David has been in 5 applications for permission to appeal to the Judicial Committee of the Privy Council, 11 appeals in the Jersey Court of Appeal, has had numerous instructions in Jersey, the Isle of Man (including cases in the Staff of Government Division) and Guernsey and acted successfully, alone, for the UK Government in the only offshore financial crime case in the European Court of Human Rights. He has received major instructions in Dubai (including acting alone in 3 inter-related arbitrations in the DIFC where he was admitted in the DIFC Court) and was junior counsel in the large corruption prosecution in the Turks

and Caicos Islands. He has advised in Hong Kong. In 2020 David represented Jersey in negotiating a US\$ 300 million asset sharing Treaty between Jersey, the United States and Nigeria.

Most of David's offshore instructions are in precedent setting cases and involve novel questions of law. He has particular experience of mutual legal assistance issues and the inter-relationship between criminal and civil recovery orders and offshore trusts and companies. He managed and wrote all the arguments for the Jersey Attorney General's Abacha cases (including Bhojwani and Doraville) which involved over 20 reasoned judgments at all levels of the court hierarchy (many of which are reported) and resulted in over US\$ 500 million being returned to Nigeria.

He has been instructed by the Jersey Financial Services Commissions ('JFSC') to conduct a 6 month regulatory investigation into the trusts arm of a major bank. He is on the Serious Fraud Office 'A' Panel for Proceeds of Crime Act cases.

Selected Cases

[In re the Saisies Judiciares of Robert Tantular \[2020\] \(1\) JLR 100](#)

Landmark case on the territorial reach of the power to freeze assets in aid of foreign criminal and civil proceedings.

[In re Tantular \[2020\] JCA 13](#)

Decision of the Jersey Court of Appeal on the status of a requesting State in mutual legal assistance proceedings and application for permission to appeal to the Judicial Committee of the Privy Council.

[Attorney General v. Arthur](#)

Decision of the Jersey Court of Appeal on Article 1 Protocol 1 of the European Convention in confiscation proceedings

[In re Tantular](#)

Decision of the Jersey Court of Appeal on whether there is power to prevent a mortgagee assigning its mortgage and power of sale over frozen property and application for permission to appeal to the Judicial Committee of the Privy Council

[First Trust Management AG v Attorney General \[2018\] JRC 64](#)

The Royal Court of Jersey upheld a US\$ 23 million freezing order on behalf of the USDOJ and gave important guidance on the interaction between offshore trust and company structures and criminal orders.

[United States v Doraville 2017 \(1\) JLR 64 2017](#)

Acting for the United States of America and the Attorney General for Jersey in parallel proceedings to enforce

a US\$ 300 million corruption forfeiture order and other relief.

Viscount v Arthur & Others

Acting for Viscount of Jersey in the Jersey Court of Appeal concerning whether she has duties akin to those of a trustee.

WTHK & Anor v UBS Trustees (Jersey) Limited [2016] JRC 99 & 113

Jersey trust proceedings concerning a €990 million fund.

Bhojwani v United Kingdom application number 49964/11 (2016)

Acted successfully for the UK government in the ECtHR in US\$43 million corruption money laundering case.

Dransfield v Information Commissioner [2015] 1 WLR 5316

Case in which the Court of Appeal gave guidance on the meaning of a 'vexatious request' in the FOI Act.

Minister of Treasury and Resources v Harcourt & Anor 2014 (2) JLR 353

Acted for the Finance Minister of Jersey in a £100 million claim for inducing breach of contract.

R v Batchelor [2013] EWCA Crim 2638

R v Venclovas

Instructed to deal with the international issues – this was the first case to be prosecuted under section 4 Suppression of Terrorism Act 1978.

Attorney General for the Turks and Caicos Islands v Oceanpoint Developments & Ors

Acting for the defendants in a US\$ 14 million claim in the Turks and Caicos Islands courts to recover the proceeds of corruption.

Advising a listed mining company in relation to its Mongolian subsidiaries.

Acting for the Attorney General for Jersey in a series of international corruption money Laundering cases including: Attorney General v Bhojwani see JLRs 2007 to 2010 (in the Jersey Royal Court, Court of Appeal and Privy Council).

Acting for the National Accountability Bureau of Pakistan ('NAB') in a series of civil and criminal corruption cases including 'Bhutto'.

Acting for the Kenyan Anti-Corruption Commission ('KACC') in a series of corruption cases. Acting for a hedge fund manager in a dispute over the US\$ 97 million proceeds of a hedge fund: *UCC v Bender* [2006] JLR 269.

International

David has travelled widely. He did his first law degree in Australia. He has worked on the ground on cases in Thailand, Pakistan, India, Kenya, Nigeria and Switzerland. He has worked closely with the United States Department of Justice and the US State Department. He has given talks and chaired seminars for the United Nations Office on Drugs and Crime (UNODC) in Turkmenistan and Kazakhstan and spoken on crime and corruption issues in Ukraine, Brazil and Cyprus. He was part of a team working for the United Nations Development programme reviewing the draft Criminal Procedure Code for Sierra Leone. He has advised in cases involving a number of other jurisdictions including: Indonesia, Mongolia, Iran, Ukraine, Germany, Italy (in a case which involved the return of € 1.3 billion to that country), Denmark, Norway, Ukraine, the Democratic Republic of Congo and South Africa.

His international work includes public and private international law issues (he is currently acting alone in a State Immunity case in the Privy Council), arbitration (he has been instructed in both commercial and investment arbitrations), civil fraud and proprietary claims (particularly where there is a linked criminal case), sanctions (he has advised on a wide range of sanctions regimes and on both the government and corporate sides of those issues), corruption (he has worked on the ground in a number of victim countries and negotiated a settlement with a large multi-national company) and international criminal law (he was instructed in a substantial in-country crimes against humanity investigation for which he wrote the report on fact and law, and is on the list of counsel at a number of international tribunals).

Academic and other

David has law degrees from the University of Queensland in Australia (where he also won the constitutional law prize) and the University of Cambridge (to which he won a full scholarship). He was awarded the Chapman Scholarship by the Inner Temple and tutored Public Law at the London School of Economics and Political Science ('LSE'). He attended the Advanced Course in International Criminal Law and the Public International Law summer school at the Hague Academy of International Law and the Human Rights Law Summer School at the European University Institute in Florence. He is a member of the Royal Institute of International Affairs (Chatham House) and of the Bar Council International Committee.

Appointments

- Deputy High Court Judge (King's Bench Division)
- Recorder (Civil and Crime (including class 2 authorisation))

Memberships

- Fraud Lawyers' Association
- Royal Institute of International Affairs